



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,713	02/04/2004	Michael L. Price	CCK-0133	4134

7590

12/19/2005

**KNOBLE YOSHIDA & DUNLEAVY, LLC**

Eight Penn Center, Suite 1350

1628 John F. Kennedy Blvd.

Philadelphia, PA 19103

EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 12/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/771,713

Applicant(s)

PRICE ET AL.

Examiner

Robin A. Hylton

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5-28-04;5-23-05</u> . | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION*****Drawings***

1. The drawings are objected to because they contain descriptive text within the body of the drawing figures. The text must be omitted. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,7,11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Taha (US 6,491,175).

Art Unit: 3727

As seen in figure 1 (for example), the lower portion of the skirt between the lower rim (80) and the lowermost thread (38) has an increased thickness. Wherein the closure of Taha is structurally the same as that which is claimed, it inherently performs the claimed function of enhancing the dimensional integrity of the closure during opening.

4. Claims 1,7,11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Luker et al. (US 4,572,387).

The increased area of thickness (26) while rounded also provides a substantially smooth inner surface. Wherein the closure of Luker is structurally the same as that which is claimed, it inherently performs the claimed function of enhancing the dimensional integrity of the closure during opening.

5. Claims 1,7,11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Kirchgessner et al. (WO 94/14672).

Viewing the figures, the lower portion of the skirt is seen to be of increased thickness between the lowermost thread and the lower rim. Wherein the closure of Kirchgessner is structurally the same as that which is claimed, it inherently performs the claimed function of enhancing the dimensional integrity of the closure during opening.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2-6 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taha.

Taha teaches the claimed closure except for the dimensions set forth in the claims.

Art Unit: 3727

Wherein no criticality is set forth for the specific dimensions in the claims, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a value suitable for the maximum thickness suitable for reinforcing the closure skirt at the area between the lowermost thread and the lower rim without adding unnecessary weight or material thickness, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

8. Claims 2-6 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Luker.

Luker teaches the claimed closure except for the dimensions set forth in the claims.

Wherein no criticality is set forth for the specific dimensions in the claims, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a value suitable for the maximum thickness suitable for reinforcing the closure skirt at the area between the lowermost thread and the lower rim without adding unnecessary weight or material thickness, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

9. Claims 2-6 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirchgessner.

Kirchgessner teaches the claimed closure except for the dimensions set forth in the claims.

Wherein no criticality is set forth for the specific dimensions in the claims, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a value suitable for the maximum thickness suitable for reinforcing the closure skirt at the area between the lowermost thread and the lower rim without adding unnecessary weight or material thickness, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Art Unit: 3727

10. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art drawing figures of the instant application in view of Ekkert (US 6,625,227).

The prior art drawing figures show a closure skirt having a narrowed portion on an inner surface of the skirt at a portion between the lowermost thread and the lower rim.

Ekkert teaches it is known to provide a closure skirt with or without a recess on the inner surface of the skirt at a portion between the lowermost thread and the lower rim.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a reinforcing means comprising an area of increased skirt thickness in the area between the lower rim and the lowermost thread to the closure skirt of the prior art drawing figures. Doing so is an art recognized substitution of structurally equivalent arrangements of closure skirts suitable for engagement with an associated container neck and selecting any one is a matter of design choice.

Wherein no criticality is set forth for the specific dimensions in the claims, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a value suitable for the maximum thickness suitable for reinforcing the closure skirt at the area between the lowermost thread and the lower rim without adding unnecessary weight or material thickness, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art closures teaching features similar to those disclosed and/or claimed are cited for their disclosures.

12. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which

Art Unit: 3727

require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

13. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. \_\_\_\_\_ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

\_\_\_\_\_  
Signature\_\_\_\_\_

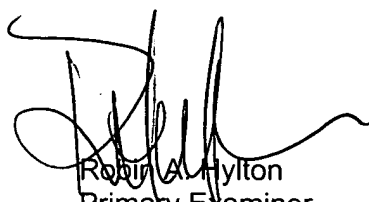
Date\_\_\_\_\_

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse, can be reached on (571) 272-4544.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RAH  
December 10, 2005

  
Robin A. Hylton  
Primary Examiner  
GAU 3727